



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) First and Final Account and Report of Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and for (3) Distribution [Prob. C. 9202, 10800, 10810, 10951, 11600, 11850(a)]

DOD: 3/30/10			<b>PUBLIC ADMINISTRATOR,</b> Administrator, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
			Account period: 8/18/10 – 11/9/11	<b>OFF CALENDAR.</b> Amended First and Final Account filed and is set for hearing on 5/14/12.
Cont. from 011912, 020212			Accounting - \$188,300.00	
	Aff.Sub.Wit.		Beginning POH - \$188,300.00	
✓	Verified		Ending POH - \$144,011.78	1. Need proof of service of the <i>Notice of Hearing</i> along with a copy of the petition on Susan Moore pursuant to <i>Request for Special Notice</i> filed on 11/29/10.
✓	Inventory		Administrator - \$6,319.00 (statutory)	2. Susan Moore represented Robert Hartley, spouse, in his Petition for Probate. Mr. Hartley was appointed as Administrator on 7/14/10 but was unable to bond and letters never issued. The Public Administrator was then appointed as successor Administrator on 8/25/10. It appears that pursuant to Probate Code §10814 Ms. Moore would be entitled to a portion of the statutory attorney fees.
✓	PTC		Administrator X/O - \$3,248.00 (per Local Rule for sale of real property, sale of personal property and preparation of taxes)	
✓	Not.Cred.		Attorney - \$6,319.00 (statutory)	
✓	Notice of Hrg		Bond fee - \$588.44 (o.k.)	
✓	Aff.Mail	W/	Court fees - \$204.00 (certified copies)	
	Aff.Pub.		<b>Distribution, pursuant to intestate succession, is to:</b>	
✓	Sp.Ntc.	W/	Robert Hartley - \$42,444.44	Reviewed by: KT
	Pers.Serv.		David Guy - \$28,296.30	Reviewed on: 3/29/12
	Conf. Screen		Robert Guy - \$28,296.30	Updates:
✓	Letters	8/25/10	Melody McCombs - \$28,296.30	Recommendation:
	Duties/Supp			File 3 - Hartley
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			

Atty Kruthers, Heather H (for Petitioner Public Administrator)  
 Atty Bagdasarian, Gary (for beneficiary California Armenian Home)  
 Atty Motsenbocker, Gary (for beneficiary Trinity Home Health Services)

Petition for Probate of Will and for Letters of Administration with Will Annexed;  
 Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

<b>DOD: 10/18/11</b>			<b>PUBLIC ADMINISTRATOR</b> is petitioner.  <b>PUBLIC ADMINISTRATOR</b> was appointed Special Administrator with general powers on 2/16/2012. Letters of Special Administration expire on 4/5/12.  Full IAEA – o.k.  Will dated: 8/11/1972 Audio Will dated: 9/2/1993  Residence: Fresno Publication: Fresno Business Journal  <u><b>Estimated value of the Estate:</b></u> Personal property - \$464,027.00 Real property - \$130,000.00 <b>Total - \$594,027.00</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Continued from 2/16/12. Minute order states Ms. Kruthers informs the court that the potential intestate heirs have been notified. The court orders there be no distribution of assets until further order of the Court. With respect to the tape recorded will, Ms. Kruthers is directed to maintain possession of the tape and proved the Court and counsel with a copy. (Note: copy of the tape was filed on 3/15/12.)  1. Petition requests that the Decedent's audio Will dated 9/2/1993 be admitted to probate. Probate Code §6110 states in relevant part "a will shall be in writing." Need authority that allows the court to admit an audio will to probate. – <i>Memorandum of Points and Authorities</i> filed on 2/1/2012 by the California Armenian Home.  2. Need proof of holographic instrument for the handwritten notations on the will if the court is going to consider said handwritten notations as a codicil to the decedent's witnessed will.
Cont. from 011912, 021612				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
✓	Aff.Mail	W/	<b>Probate Referee: STEVEN DIEBERT</b>	
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT

Reviewed on: 3/29/12

Updates:

Recommendation:

File 5 - Boghosian

**Memorandum of Points and Authorities in Support of Petition for Probate filed by the California Armenian Home on 2/1/12.**

A holographic codicil may be placed on the face of a witnessed will, and is valid if it meets the requisites of a holographic instrument (written in the testator's hand, dated and signed). [*Estate of Nielson* (1980) 105 Cal.App.3d 796, 802-805] Witkins defines "codicil" as "a later testamentary instrument or entry on an original testamentary instrument that supplements or otherwise affects its validity or terms." [14 Witkin, *Summary of California Law* (10th ed.(2005), Wills, §159]

The handwritten notation of Mr. Boghosian on the face of his witnessed will appears to constitute a holographic codicil, since it appears to be in his handwriting, is dated and signed, and supplements or otherwise affects the validity or terms of his earlier witnessed will.

A holographic codicil may incorporate by reference another writing (formal or informal, attested or unattested) as long as the reference is unmistakable or can be deemed unmistakable by reference to extrinsic evidence. [*In re Foxworth's Estate* (1966) 240 Cal.App.2d 784, 788] The required elements to establish incorporation by reference are: (1) the incorporated writing must be in existence at the time the codicil makes reference to it; (2) the codicil must identify the incorporated writing by a sufficiently certain description, and extrinsic evidence is admissible to aid the identification; and, (3) it must appear that the testator intended to incorporate the writing for the purpose of carrying out his testamentary desires. [id. at pages 788-789]

The handwritten notation of Mr. Boghosian on his witnessed will appears to constitute a holographic codicil that incorporates by reference two separate writings for the purpose of carrying out his testamentary desires.

First, the holographic codicil incorporates the tape recording that Mr. Boghosian specifically identifies and states that he "made" on September 2, 1993 "to supersede" his witnessed will. This establishes the elements of existence, identification and intent. The element of identification is also established by the extrinsic evidence consisting of Mr. Boghosian's handwritten notations on the tape itself, and on the envelope in which his witnessed will and tape were found.

Second, the holographic codicil incorporates Mr. Boghosian's witnessed will by referring to "this will" as the testamentary instrument he sought to "supersede" with the tape recorded instructions.

Finally, the tape recording should be considered a proper matter to be incorporated by reference notwithstanding that case law on the issue generally refers to "documents" being incorporated by reference. Probate Code §6130 governs incorporation by reference, and refers to a "writing" as the type of matter which may be incorporated by reference (not a "document" or "paper"). The Probate Code does not define the word "writing" and does not exclude probate proceedings from the rules of evidence, so the provisions of the Evidence Code may be applied to determine the meaning of the word "writing" used in Probate Code §6130. [Evidence Code §300; and see, *Estate of Nicholas* (1986) 177 Cal.App.3d 1071, 1088]

Evidence Code §250 provides the following definition for the word "writing:"

"'Writing' means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting, by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereby created, regardless of the manner in which the record has been stored."

Tape recordings are considered “writings” under the Evidence Code. [*Darley v. Ward* (1980) 28 Cal.3d 257,261] Since the tape recording made by Mr. Boghosian is a “writing” it is subject to being incorporated by reference in his holographic codicil.

Therefore, request is made that the Will of Jack H. Boghosian dated August 11, 1972 be admitted with the taped testamentary document described in Attachment 3e(2) to the Petition of the Fresno County Public Administrator as the codicil of the Decedent.

**Memorandum of Points and Authorities filed by Trinity Home Health Services dba Saint Agnes Home Health and Hospice, beneficiary filed on 2/14/12.**

## Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 2 DOB: 01/16/10		<p align="center"><b><u>NO TEMPORARY REQUESTED</u></b></p> <p><b>OLGA TERAN</b>, maternal grandmother, is Petitioner.</p> <p>Father: UNKNOWN</p> <p>Mother: ELIZA FRAUSTO</p> <p>Paternal grandparents: UNKNOWN</p> <p>Maternal grandfather: JESSE FRAUSTO</p> <p>Siblings: LOGAN HERNANDEZ, ERIKA HERNANDEZ, JAYDEN HERNANDEZ, EDUARDO TREJO</p> <p>Petitioner states that Gabriella has lived with her since she was 3 months old. At that time, her mother was not able or willing to support her. Petitioner states that she has been Gabriella's sole provider and caregiver.</p> <p><b>Court Investigator Jennifer Young's report was filed – NEED REPORT.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Note:</u> UCCJEA indicates that the petitioner and the minor have lived in Madera since the minor's birth; it is unclear why this Petition was filed in Fresno County.</p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>- Father (unknown)</li> <li>- Eliza Frausto (mother)</li> </ul> </li> <li>3. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>- Paternal grandparents</li> <li>- Jesse Frausto (maternal grandfather)</li> <li>- Any sibling 12 and over</li> </ul> </li> <li>4. Need CI report and Clearances (CI to provide).</li> </ol>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			x
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			x
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			x
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Reviewed by: JF				
Reviewed on: 03/29/12				
Updates:				
Recommendation:				
File 7 - Hernandez				

## Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Ace, 2 DOB: 03/22/10 Aubryanna, 11 mos. DOB: 05/04/11		<b><u>TEMPORARY GRANTED EX PARTE;</u></b> <b><u>EXPIRES 04/05/12</u></b>  <b><u>GENERAL HEARING 05/24/12</u></b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note:</b> Petition was granted Ex Parte, therefore there is no Order in the file to sign.
Cont. from		<b>MELISSA RIVERA</b> , paternal grandmother, is Petitioner.	
	Aff.Sub.Wit.	Father: <b>THOMAS RIVERA</b> – <i>personally served 03/22/12</i>	
✓	Verified	Mother: <b>FRANCINE ALFARO</b> – <i>personally served 03/23/12</i>	
	Inventory	Paternal grandfather: GABRIEL BETTENCOURT	
	PTC	Maternal grandfather: UNKNOWN	
	Not.Cred.	Maternal grandmother: MARIA GUILLEN	
✓	Notice of Hrg	Petitioner states that the children's mother has exposed the children to substance abuse, domestic violence, criminal activity (the selling of drugs in their home), gang activity, and has left the children in the care of a person who is known to have caused injury to a 3 year old child in the past. Ace no longer wants to be in his mother's care and screams uncontrollably and says "no, no, no" when he has to go with her. Petitioner states that she is willing and able to care for the children and that a temporary guardianship is necessary because she is afraid the children will suffer further physical and emotional harm if left in their mother's care. Their father is not willing or able to care for them at this time either.	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			<b>Reviewed by:</b> JF <b>Reviewed on:</b> 03/29/12 <b>Updates:</b> <b>Recommendation:</b> <b>File 8 - Rivera</b>

<b>DOD: 10/21/09</b>		<p><b>JUDITH BARR</b> was appointed Administrator on 2/22/10.</p> <p>Inventories and appraisals total \$353,3330.71</p> <p>First Account and Petition for Preliminary Distribution was filed on 9/8/11.</p> <p>Minute Order dated 9/8/11 set this status hearing for the filing of the Petition for Final Distribution.</p> <p><b>Status Report of Attorney Judith Wright filed on 3/29/12</b> states the Administrator is unable to close the probate due to the existence of a bank account held with Cheltenham and Gloucester in London, England. This account has an approximate value of \$36,297.13 in U.S. dollars. The Administrator has determined she must open a probate in England in order to get the Cheltenham and Gloucester account transferred to the estate. The Administrator has retained the services of a Solicitor in England. The Administrator has yet to be informed as to when to anticipate the completion of the England probate.</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 120811</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
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<b>Conf. Screen</b>			
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<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by: KT</b> <b>Reviewed on: 3/29/12</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 9 - Ferreira</b>	



**Probate Status Hearing Re: Termination of Proceeding for Deceased Conservatee  
(Prob. C. § 1860, et seq.)**

<b>DOD: 06/24/11</b>		<p><b>JULIA W. MACCONOCHIE</b>, daughter, and <b>ALISA M. TRIBBEY</b>, niece, were appointed as Co-Conservators of the Person and Estate on 06/07/10. Bond was set at \$16,585.80 and Letters were issued on 08/17/10.</p> <p>Conservatee died on 06/24/11.</p> <p><b>Notice of Status Hearing</b> was filed 02/06/12. A copy of the Notice of Status Hearing was mailed to each Conservator and attorney Gary Bagdasarian on 02/06/12.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u><b>Note:</b></u> No accounting has been filed in this matter.</p> <p>1. Need status update regarding accounting and termination of proceedings.</p>				
<b>Cont. from</b>							
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>						
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<input type="checkbox"/>	<b>Objections</b>						
<input type="checkbox"/>	<b>Video Receipt</b>						
<input type="checkbox"/>	<b>CI Report</b>						
<input type="checkbox"/>	<b>9202</b>						
<input type="checkbox"/>	<b>Order</b>						
<input type="checkbox"/>	<b>Aff. Posting</b>						
<input type="checkbox"/>	<b>Status Rpt</b>						
<input type="checkbox"/>	<b>UCCJEA</b>						
<input type="checkbox"/>	<b>Citation</b>						
<input type="checkbox"/>	<b>FTB Notice</b>						
		<table border="1"> <tr><td><b>Reviewed by:</b> JF</td></tr> <tr><td><b>Reviewed on:</b> 03/29/12</td></tr> <tr><td><b>Updates:</b></td></tr> <tr><td><b>Recommendation:</b></td></tr> <tr><td><b>File 10 - Williams</b></td></tr> </table>	<b>Reviewed by:</b> JF	<b>Reviewed on:</b> 03/29/12	<b>Updates:</b>	<b>Recommendation:</b>	<b>File 10 - Williams</b>
<b>Reviewed by:</b> JF							
<b>Reviewed on:</b> 03/29/12							
<b>Updates:</b>							
<b>Recommendation:</b>							
<b>File 10 - Williams</b>							